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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11662 OF 2014

Shantabai Namdeorao Doiphode.

..Petitioner

-Versus-

Apparao Ramchandra Patil.

(Died) and another.

..Respondents

.....

Mr.G.J.Karne, Advocate for the Petitioner.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th February, 2015

Per Court:

1 The Petitioner is aggrieved by the impugned order dated 28.01.2002 passed in RCA No.78/1996 and the order dated 22.09.2014 passed in RCA No.7/2003 (old RCA No.78/1996).

2 The grievance of the Petitioner is that Second Appeal No.245/1993 pending before this Court is the cause of staying of the first appeal proceedings before the learned District Judge. The Petitioner states that the Appellants in Second Appeal No.245/1993 before this Court are deliberately delaying the matter and as such, the learned District Judge is not proceeding with RCA No.7/2003.

3 The order passed by the learned District Judge in the first appeal proceedings is dated 28.01.2002. The Petitioner had given her no objection for staying the said proceedings. Besides this statement, the Petitioner has not suggested any condition while staying the first appeal proceedings.

4 By order dated 22.09.2014, in the same premises, the learned District Judge has stayed the appeal proceedings on the ground that Second Appeal No.245/1993 is pending before this Court.

5 Since the Appeal proceedings before the learned District Judge have initially been stayed by consent on 28.01.2002 and the said position continues in the matter, that I do not find it appropriate to interfere with the consenting order and which has, thereafter, been continued by the learned District Judge vide order dated 22.09.2014.

6 Nevertheless, the Petitioner as Respondent in Second Appeal No.245/1993 before this Court surely should have made an endeavour to seek hearing of the said Second Appeal. The grievance of the Petitioner that the Respondents herein/ Appellants in Second Appeal, have intentionally delayed the matter, can also be voiced before the learned Court dealing with Second Appeal No.245/1993.

7 In the light of the above, the Writ Petition is disposed of with the above observations. No order as to costs.

(RAVINDRA V. GHUGE, J.)